UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

JOSE TINEO,

       Defendant/Movant,   Case No. 96-CR-58

       v.

UNITED STATES OF AMERICA,

       Respondent.

OPINION AND ORDER

Jose Tineo, a prisoner in federal custody, has moved the court for an order dismissing the case against him which would include vacating his conviction and sentence. Tineo argues that he is a citizen of Mexico and that, under the Vienna Convention, a Mexican consular official should have been notified of his arrest.

Construing this motion as a motion for relief pursuant to 28 U.S.C. § 2255, the court finds that this is a consecutive section 2255 motion. This court denied Tineo's first motion on its merits on January 11, 1999. The Court of Appeals affirmed.

Tineo has not sought leave of the Court of Appeals for the Seventh Circuit to file a successive motion as required by 28 U.S.C. § 2244(b). Therefore, the court lacks jurisdiction to address the merits of his motion and ORDERS that Tineo's "Motion For Judicial Request, To Dismiss My Case Because When I Was Arrested, Authorities Failed to Inform Me (An Alien) Of My Right To Consult With My Nation's Consular Official, As Required By The Vienna Convention, Ratified By The United States on November 27, 1969" (filed December 19, 2005) IS DENIED.

IT IS FURTHER ORDERED that this action is dismissed.

IT IS FURTHER ORDERED that the Clerk of Court shall enter a judgment of dismissal as a separate document. See Federal Rule of Civil Procedure 58. This judgment shall provide that:

> Jose Tineo brought a motion for relief from his conviction and sentence before the court, the Honorable Thomas J. Curran, District Judge, presiding, and the court having concluded that it does not have jurisdiction to address this successive motion,
>
> IT IS ORDERED AND ADJUDGED
>
> that this action is dismissed for lack of jurisdiction.

Done and Ordered in Chambers at the United States Courthouse, Milwaukee, Wisconsin, this 28th day of February, 2006.

s/ Thomas J. Curran
Thomas J. Curran
United States District Judge

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